

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CORRIE M. HOEY, Personal Representative
of the Estate of Darren L. Hoey, deceased,

Plaintiff,

-vs-

Case No. 07-14590

Judge Avern Cohn

WILLIAM S. CARDASIS, M.D. *et al.*,

Defendants.

_____ /

**MEMORANDUM AND ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT CARDASIS' MOTION TO DISMISS**

This is a civil rights case brought under 42 U.S.C. § 1983. Plaintiff Corrie M. Hoey is the personal representative of the estate of her deceased son, Darren L. Hoey ("Hoey"). Hoey was an involuntarily committed patient at the Center for Forensic Psychiatry ("the Center"), a mental health facility operated by the Michigan Department of Community Health. The complaint alleges that on November 6, 2004, Hoey became agitated and struck an employee of the Center. In response, a number of employees of the Center forced Hoey to the ground and applied wrist and ankle restraints. As a result of the force used against him, Hoey was positionally asphyxiated and died. Plaintiff makes claims for violations of the Fourth and Fourteenth Amendments and the Michigan Mental Health Code, MCL § 300.1722(3).

Now before the Court is a motion to dismiss the complaint for failure to state a valid claim made by Defendant William S. Cardasis, M.D. ("Cardasis"). The complaint

states that Cardasis was a psychiatrist at the center who observed and directed other individual defendants during the events at issue. The Court held a hearing on the motion on June 11, 2008.

For the reasons stated on the record at the hearing of June 11, 2008, the motion is DENIED as to Plaintiff's claims under the Fourteenth Amendment and the Michigan Mental Health Code. The motion is GRANTED as to Plaintiff's Fourth Amendment claim; the Fourth Amendment does not apply in this case.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: June 12, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, June 12, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160